

Appl. No. 10/665,105
Amdt. Dated 08/19/2005
Reply to Office action of August 1, 2005

REMARKS/ARGUMENTS

In the Office Action, restriction to one of the following inventions was required under 35 U.S.C. 121:

- I. Claims 1-12, drawn to a method of stabilizing the output signal of a system that detects microbial growth in a sealed sample container, comprising the step of monitoring the pressure changes within the headspace of a sealed sample chamber, classified in class 436, subclass 148.
- II. Claims 13-24, drawn to a method of stabilizing the output signal of a system that detects microbial growth in a sealed sample container, comprising the step of monitoring the reduction in oxygen in the fluid mixture contained in the sealed sample chamber, classified in class 436, subclass 138.
- III. Claims 25-32, drawn to a method of stabilizing the output signal of a system that is monitoring a liquid mixture in a sealed container, comprising the step of mixing at least one poisoning agent to the liquid mixture, classified in class 436, subclass 2.

The Office Action stated that "The inventions are distinct, each from the other because of the following reasons:

The processes are distinct from one another because they recite different and distinct steps.

The several inventions listed above are independent and distinct from one another as they have acquired a separate status in the art and require independent searches, particularly with regard to the literature. Clearly, a reference that would anticipate one of the above groups would not necessarily anticipate or even make obvious any of the others.

An undue burden would ensue from the examination of multiple methods that have distinct steps. Burden lies not only in the search of US Patents, but also in the search for literature and foreign patents and examination of the claim language and specification for compliance with the statutes concerning new matter, distinctness and scope of enablement."


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Applicant elects Group I including Claims 1-12 without traverse.

Claims 13 - 32 are withdrawn.

Applicant respectfully requests that a timely Notice of Allowance be issued in this case.

Respectfully submitted,


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CERTIFICATE OF TRANSMISSION BY FACSIMILE

I hereby certify that this correspondence is being transmitted to the United States Patent and Trademark Office (Fax No. 571-273-8300) on August 19, 2005.

Name of Person Signing Certificate : Howard M. Cohn

Signature :

Date of Person signing

: August 19, 2005 